

T³: Trustee Training Tips

Number 5

Volume 2

Kentucky Department for Libraries & Archives

Summer 2004

A MISPLACED BOOK IS A LOST BOOK

The above is a maxim well known to librarians and often misunderstood by well meaning patrons who wish to “help” by replacing their own materials. But it also applies to library board members: keeping track of the numerous items, usually pieces of paper, given to you periodically and continually concerning your role as a trustee. More than likely, you have everything you need to know, but do you know where it is?

There are several ways to keep track of your print information, but one of the more popular and successful ways is for the library to issue each board member a 3-ring notebook. Index tabs can be added that divide the contents into 12 sections, one for each month of the fiscal year. Some libraries favor tabs based on content rather than time frames and divide theirs into such categories as Minutes, Financial Reports, Budget (if not already included in Financial Reports), Director’s Report, Correspondence, etc. Whether your library opts for the contents-based division or the monthly tabs, be sure to include a space for the latest Annual Report, Long-Range Plan, and *Kentucky Public Library Standards* checklists. You will surely want to include your *Kentucky Public Library Trustee Manual* and your own Library Board Policies. As most staff handbooks or manuals—which will have the library’s personnel and operational policies—are significantly larger, this may be something to exclude from this binder. It only makes sense for all members of the board to have the same format to facilitate ease of use.

Using a 3-ring binder means all reports and correspondence sent out to trustees prior to the meeting and all handouts during the meeting will need to be 3-hole punched. But who is responsible for maintaining these binders? Obviously the hole punching is done by library staff, but what beyond that depends upon where the binders are when the board is not actually meeting. Do trustees take them home and bring them back each time? Do they remain at the library? There are advantages and disadvantages to each. Leaving them at the library allows staff to “stuff” them each time, keeping everyone’s materials updated and in consistent order, but it means the trustee does not have ready access to what’s inside the binder except during the actual board meeting time. Taking the binders home or elsewhere between meetings means each trustee must take seriously the task of adding materials and remembering to bring the binder to each meeting.

MODEL PROCUREMENT

Public libraries, as governmental entities, are required to bid any expense over \$20,000, excluding professional services, or to purchase from vendors on the “State Price Contract” list. Spending public money does not stop with such simplicity, however. These are part of an avenue open to libraries called the Model Procurement Code (MPC)—and you thought MP3 was complicated!

The MPC is optional. Should a library wish to use it, it must be adopted by the board as its official way to purchase, and until officially rescinded, remains the procedure by which a given board must continue to operate. The MPC has been around for a number of years, meaning your library may have already adopted it 20+ years ago. (Perhaps yet another reason to have all the board’s policies captured in one place so as to limit the search to determine such historical information.)

What exactly is the Model Procurement Code? It is found in KRS 45A.345–.460 and it spells out in great detail how a government agency may and may not spend funds. In addition to determining how to purchase, the Code also covers selling surplus property under 45A.425. If one is inclined to read these statutes, note that sections 45A.005–.340 apply to state government only and not local government, which includes libraries.

The advantages to adopting the Code are several: it allows flexibility in making purchasing decisions; consolidates buying power of state/local governments; increases public confidence; provides alternative methods of source selection; minimizes political influences; provides direction and policy; gives the library director full and final authority to make procurement deci-

sions; allows for an audit trail of purchases; and keeps all procurement matters documented at a centralized location. The disadvantages are lesser in number and include: the complexities of the statutes and the requirement of a detailed written policy adopted by the library board.

Among the advantages to the Code is the flexibility it gives libraries for making responsible purchasing decisions. They are: Competitive Sealed Bid; Competitive Negotiation; Noncompetitive Negotiation; Small Purchase Procedures; State/Federal Price Contracts; and Declaration of an Emergency. Each is defined and its limitations explained in the statutes. Boards will need to officially authorize their director to act in an emergency, such as floods or tornados.

Adoption of the MPC comes with penalties should the provisions of it be violated—another good reason to rescind this policy if a previous board adopted it and the current board no longer wishes to abide by its dictates. Penalties may be fines, imprisonment, or both, so this should not be taken lightly. This is where kickbacks to vendors fall, for example; probably not high ticket items for libraries, but major numbers for highway construction, etc.

Should your library adopt the Model Procurement Code? Only your library board can answer that. But perhaps the first question to ask is whether it has already been adopted and you have been required to follow it without knowing that. Then is the time to discuss whether or not this is a good option for your library. These statutes, as all statutes, are cumbersome and bureaucratic sounding, but they are well thought out and provide some very good protection against liabilities and potential lawsuits. Without them, a library is on its own to defend itself.

Whatever you do to
eliminate misplaced items
will be worth the effort.
Happy organizing!

ADVISORY BOARDS

Some libraries realize their needs outstrip their resources, not only in financial terms, but in decision making at the board level as well. Such situations may be addressed via *ad hoc* committees charged with studying specific issues and making recommendations to the library board. Taxing district boards are also empowered to establish advisory boards by KRS 173.490 and 173.730. The statutes read identically: “An advisory board may be appointed and serve as specified in bylaws of the board of trustees.”

Does this mean a library board may increase its number of members by appointing additional individuals to their advisory board? No. There is a clear distinction between the appointed board and the advisory board. The appointed board—those who have gone through the process of being officially nominated by the current board, had their names sent to the State Librarian and Commission for approval, and subsequently been appointed by their County Judge-Executive with the approval of Fiscal Court—is the one that has the legal authority to act in the library’s name. The advisory board is merely that. Its members come to the meetings, participate in the discussions, attempt by all legal means to persuade the appointed board to see their point of view, but that is the extent of their power.

The appointed board, which for most libraries in Kentucky is a five-member board, has the legal responsibility for the sound management of the library. It is they who must make the final decisions. It is they who need to make the motions, second said motions, and participate in the vote. Never should the advisory board be included in actually voting on decisions of the board. Remember that library boards, the legally appointed ones, are held liable for their actions. They may sue and be sued, purchase

or lease property, sell and receive gifts on behalf of the library, borrow money on the credit of the district’s taxing ability, and establish bylaws and policy to govern the library(ies) in the district. This last sentence is a paraphrase of KRS 173.520 and 173.745.

For reasons of personal liability, no advisory board member should wish to see his or her name appear in the minutes as voting (or even making or seconding motions) when that is the responsibility of the appointed board. This does not mean, however, that advisory board members do not have anything to contribute. Their input into discussion can be invaluable and keep the appointed board from making costly mistakes. Perhaps an advisory board member is a clever wordsmith who can assist in wording a motion so that it is clear and will be easily understood at a later date. This creates no problem as long as an appointed board member is the actual person named in the minutes as making the motion. And, of course, advisory board members do not count toward the number needed for a quorum.

T³:Trustee Training Tips is published quarterly by the Field Services Division of the Kentucky Department for Libraries and Archives. Correspondence should be addressed to the editor, Nelda Moore, at Lincoln Trail Regional Office, 201 West Dixie Avenue, Suite One, Elizabethtown 42701-1533. Phone 270.766.5222; Fax 270.766.5273; e-mail: nelda.moore@ky.gov.

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LIBRARY LETTERS

*Dear Marian Librarian,
In our small town there is only one bookkeeping
service/CPA firm. Can we use them to do both
our bookkeeping and our audit?*

-- Troubled Trustee

Dear Troubled,

This is a situation where you are expecting Bob Cratchit, CPA to audit what Bob Cratchit bookkeeper has done and appears to me to be a blatant conflict of interest for Bob Cratchit—not to mention sloppy financial responsibility on the library board's part. While it is often tempting to keep "business at home" this is definitely a case where you should look beyond your county borders for one or the other. The same company, even if different individuals are involved, should not be doing both your bookkeeping and audit. The purpose of the audit, after all, is to find problems with the bookkeeping.

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HOW MUCH DO YOU KNOW?

The following quiz will let you test your knowledge on the topics covered in this publication. The answers are under "Publications" on KDLA's web page <www.kdla.ky.gov>.

1. Is your library information organized in a way that allows you to access it easily and efficiently?
2. What is the recommended way to organize board related information?
3. Why should a library adopt the Model Procurement Code?
4. Why should we worry whether we have adopted the Model Procurement Code or not? What happens if we don't?
5. Does it matter which board members are on the appointed board and which are advisory? Isn't everyone there for the same purpose?

ADDRESS CORRECTION REQUESTED
PLEASE FORWARD

ANSWERS TO T³ QUIZ:

1. **Is your library information organized in a way that allows you to access it easily and efficiently?** [page 1]

Trick question! Only you know the answer to this one. But if it isn't, it should be.

2. **What is the recommended way to organize board related information?** [page 1]

While there is no "official" way, any way that works for your board will do. It is recommended, however, that all members of a given board use the same method, as this will diminish confusion when you are asked to look at something. For example, if the discussion takes a turn toward an education leave policy and there is a difference of remembrance among the board members that necessitates checking on it, someone may quickly find in past policy revisions or past minutes where it was done and can direct others to that part of the paper trail. If all are organized the same way such direction will work instantly; if all are different, it will be of little or no help.

3. **Why should a library adopt the Model Procurement Code?** [page 2]

The biggest reason is for your own protection. It gives you well-thought out guidance in purchasing with public money and becomes a very defensible policy should your spending be challenged by any person or group for any reason. If you "wing it" with your own spending policy, or worse yet, no spending policy, the library and the board individual members become "sitting ducks" for complaints, challenges, or even lawsuits. Beyond the protection reason, it gives the library several choices, allowing for flexibility, in making responsible purchasing decisions. It minimizes political, even small town political, pressure to purchase from a less desirable vendor. It creates an audit trail and it should provide public confidence that their tax dollars are being spent wisely and efficiently.

4. **Why should we worry whether we have adopted the Model Procurement Code or not? What happens if we don't?** [page 2]

Once a library board has adopted any policy, it is bound to follow it or suffer the consequences. Many times these consequences are minor and many times boards delude themselves with the "we won't get caught" answer to things. The MPC is a voluntary policy a library may adopt, but once done it must be followed. To that end, it is important to determine whether or not adoption has been made in the past. If a library had adopted it and fails to follow it and is challenged, the consequences become much more serious. They can be as strict as fines (and we're not talking overdue library books here—think more like IRS fines) and even imprisonment. Bottom line: if you have it, follow it. If you don't want to follow it, un-adopt it.

5. **Does it matter which board members are on the appointed board and which are advisory? Isn't everyone there for the same purpose?** [page 3]

Yes, everyone is there for the same purpose—to help the library. But, the officially appointed board is a legal entity that can sue and be sued, incur debt, sign contracts, etc. Basically, the legally appointed trustees, aka the voting board, have certain obligations and liabilities that the advisory board does not. Minutes that reflect anyone other than the legal board making legal decisions are dangerous items for the obvious reasons! Advisory boards are just what their names say—boards to advise. Such advice can be invaluable, but it has no legal standing in this litigious world in which we now live.